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UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SANTA ROSA DIVISION

In re:

JOHN FREDERICK DIXON,

Debtor.

CASE NO. 09-11851

Chapter 11

Date: October 2, 2009
 Time: 10:00 a.m.
 Place: Courtroom of the Honorable
 Alan Jaroslovsky
 99 South E Street
 Santa Rosa, California

**AMENDED OBJECTION BY ORIX CAPITAL MARKETS, LLC TO
CLAIMS OF EXEMPTION OF DEBTOR**

INTRODUCTION

ORIX Capital Markets, LLC ("ORIX"), by and through its counsel, hereby files this Amended Objection to Claims of Exemption of Debtor John Frederick Dixon ("Debtor") on the basis that Debtor has filed its Schedule C-Property Claimed As Exempt claiming a total aggregate exemption in two separate IRA Accounts (as defined below) in excess of \$1,117,375 pursuant to 11 U.S.C. Section 522 (b)(3)(c). As a result, 11 U.S.C. Section 522 (n) applies and the total amount of exemptions allowed to be claimed by Debtor in the IRA Accounts is capped at \$1,095,000.

1 Therefore, Debtor has exceeded the statutory limit by an amount in excess of \$22,000 based on his
2 claimed exemptions in the IRA Accounts and these exemptions must be denied or Debtor must be
3 required to file an Amended Schedule C. Moreover, ORIX reserves the right to conduct discovery
4 as to whether all applicable Internal Revenue Code provisions have been complied with in
5 connection with the IRA Accounts to allow the Debtor to assert his exemptions pursuant to 11
6 U.S.C. Section 522 (b)(3)(c).

7 STATEMENT OF FACTS

8 On June 19, 2009, Debtor filed his Chapter 11 Voluntary Petition commencing the
9 above-referenced bankruptcy case ("Bankruptcy Case").

10 Thereafter, on June 26, 2009, Debtor filed in his Bankruptcy Case, inter alia, his
11 Schedule C-Property Claimed as Exempt ("Schedule C"), a true and correct copy of which is
12 attached hereto as Exhibit A. Pursuant to Schedule C, Debtor claimed exemptions in an IRA
13 Rollover Account #2873-2979 with Charles Schwab & Co. and IRA Account #005331770002 with
14 FiServe Investment Services (collectively, the "IRA Accounts") in the amounts of \$1,093,490 and
15 \$23,885, respectively.

16 In support of his claims of exemption in the IRA Accounts, Debtor cites 11 U.S.C.
17 Section 522 (b)(3)(C). On July 31, 2009, Debtor's 341 Meeting was held and concluded. Thus, the
18 deadline for ORIX to file an objection to Debtor's claims of exemption pursuant to 11 U.S.C.
19 Section 522 is August 31, 2009.

20 As a result, ORIX files this objection to preserve its rights pursuant to 11 U.S.C.
21 Section 522 (l).

22 ARGUMENT

23 Debtor cites 11 U.S.C. Section 522 (b)(3)(C) as the statutory basis for claiming an
24 exemption in the IRA Accounts. As a result, 11 U.S.C. Section 522 (n) applies, which provides, in
25 pertinent part, as follows:

26 For assets in individual retirement accounts described in section 408 or
27 408A of the Internal Revenue Code of 1986, other than simplified
28 employee pension under section 408 (k) of such Code or a simple
retirement account under section 408 (p) of such Code, **the aggregate
value of such assets exempted under this section . . . shall not**

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In addition, ORIX also reserves the right to conduct discovery as to the IRA Accounts in connection with this Amended Objection and require that Debtor demonstrate that all applicable Internal Revenue Code provisions, including but not limited to, Internal Revenue Code Sections 401, 408, 408A, 5414, 457 or 501 (a), and 7805 have been complied with for Debtor to qualify for an exemption pursuant to 11 U.S.C. Section 522 (b) (3) (C).

Based on the foregoing, either Debtor's claimed exemptions for the IRA Accounts must be denied, or in the alternative, Debtor must be required to file an Amended Schedule C.

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By: /s/ Walter W. Gouldsbury III
WALTER W. GOULDSBURY III
Attorneys for Creditor ORIX CAPITAL MARKETS,
LLC

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EXHIBIT A

In re John Frederick DixonCase No. 09-11851

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPTDebtor claims the exemptions to which debtor is entitled under:
(Check one box)

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

☒ Check if debtor claims a homestead exemption that exceeds \$136,875.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
<u>Real Property</u>			
Residence 300 Palm Avenue Kentfield, CA	C.C.P. § 704.730	150,000.00	1,750.00
<u>Household Goods and Furnishings</u>			
Miscellaneous goods and furnishings located at 300 Palm Avenue Kentfield, California	C.C.P. § 704.020	2,500.00	2,50
<u>Wearing Apparel</u>			
Miscellaneous clothing	C.C.P. § 704.020	1,500.00	1,50
<u>Interests in Insurance Policies</u>			
United of Omaha Life Insurance #BU1225080 (value of \$21,134 on 5/28/2010)	C.C.P. § 704.100	21,134.00	21,13
<u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u>			
IRA Rollover Account #2873-2979 Charles Schwab & Co. 101 Montgomery Street San Francisco, CA 94104	11 U.S.C. § 522(b)(3)(C)	1,093,490.00	1,131,71
IRA Account #005331770002 FiServe Investment Services 717 17th Street, Suite 1700 Denver, CO 80217	11 U.S.C. § 522(b)(3)(C)	23,885.00	32,52
<u>Other Liquidated Debts Owed Debtor Including Tax Refund</u>			
Monthly social security \$1,865/mo. (Not property of the estate)	42 U.S.C.A. § 407 Not property of the estate	1,865.00	Unkn
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
2003 Acura 3.2CL	C.C.P. § 704.010	2,550.00	8,86
<u>Office Equipment, Furnishings and Supplies</u>			
Gateway FX530XG computer and fax/printer purchased in 2007 located at 300 Palm Avenue, Kentfield, CA	C.C.P. § 704.060	250.00	25
Dell Latitude X200 Computer purchased in 2002 and located at 300 Palm Avenue, Kentfield, California	C.C.P. § 704.060	50.00	5

1 continuation sheets attached to Schedule of Property Claimed as Exempt

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Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exempt
Dell XPS410 computer and HP Laserjet 1520 printer purchased in 2007, Fujitsu scanner purchased in 2004, Canon B740 fax purchased in 2003, Konica 3135 photocopier purchased in 1995, typewriter, desk and 3 chairs, 3 file cabinets, credenza and 2 bookshelves all located at 851 Irwin Street, Suite 302, San Rafael, CA	C.C.P. § 704.060	3,500.00	3,500.00

Sheet 1 of 1 continuation sheets attached to the Schedule of Property Claimed as Exempt

Total: 1,300,724.00 2,952,043.00

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